

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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LAWRENCE G. MALONE
General Counsel

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January 9, 1998

Hon. Magalie Roman Galas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

CC 96-98

Re: Petition for Waiver of 47 C.F.R. 5219(3)(C)(ii)

Dear Secretary Galas:

Enclosed for filing is an original and five (5) copies of the Petition for Expedited Waiver of 47 C.F.R. 52.19(3)(C)(ii) of the Department of Public Service.

Sincerely,

Lawrence G. Malone
Lawrence G. Malone
General Counsel
New York State
Department of Public Service
Three Empire State Plaza
Albany, New York 12223

Enclosure

cc: A. Richard Metzger, Jr.
Chief
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Geraldine Matise, Chief
Network Services Division
Federal Communications Commission
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN 20 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matters of)	
Implementation of the Local)	CC Docket No. 96-98
Competition Provisions of the)	
Telecommunications Act of 1996)	
Interconnection Between Local)	CC Docket No. 95-185
Exchange Carriers and Commercial)	
Mobile Radio Service Providers)	
Area Code Relief Plan for Dallas)	NSD File No. 96-8
and Houston, Ordered by the Public)	
Utility Commission of Texas)	
Administration of the North)	CC Docket No. 92-237
American Numbering Plan)	
Proposed 708 Relief Plan and 630)	IAD File No. 94-102
Numbering Plan Area Code and)	
Ameritech-Illinois)	

NEW YORK DEPARTMENT OF PUBLIC SERVICE PETITION
FOR EXPEDITED WAIVER OF 47 C.F.R. 52.19(3)(C)(ii)

FILED BY
THE NEW YORK STATE
DEPARTMENT OF PUBLIC SERVICE

Dated: January 9, 1998
Albany, New York

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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NEW YORK DEPARTMENT OF PUBLIC SERVICE PETITION
FOR EXPEDITED WAIVER OF 47 C.F.R. 42.19(3)(C)(ii)

FILED BY
THE NEW YORK STATE
DEPARTMENT OF PUBLIC SERVICE

INTRODUCTION AND SUMMARY

In December 1996, the New York Public Service Commission (NYPSC) instituted a proceeding to investigate the options for making additional area codes available in the 212 and 917 area codes in New York City.¹ It is anticipated that all available central office codes will be exhausted in the 212 area code by June 1998, the 718 area code by early 1999, and the 917 area code by 1999. As the result of the NYPSC's investigation,

¹ NYPSC Case 96-C-1158, Proceeding on Motion of the Commission to Investigate the Options for Making Additional Central Office Codes Available in the 212 and 917 Area Codes in New York City.

it appears that an area code overlay will provide the greatest number relief for New York City.²

Section 52.19(c)(3)(ii) of the Federal Communications Commission's (Commission) rules requires mandatory 10-digit dialing when an area code overlay is used to provide number relief. The purpose of the 10-digit dialing requirement, as articulated by the Commission, is to ensure that competitors do not suffer competitive disadvantages and competition is not deterred as a result of dialing disparity (Local Competition Second Report and Order at 47330, para. 286 - para. 287).³ The Commission presumes that, absent the 10-digit dialing requirement, "dialing disparity" would exist and competition would be impeded (Local Competition Second Report and Order at 47330, para. 287). As discussed below, the proposed overlay plan for New York City will not impede competition. However, enforcement of mandatory 10-digit dialing will unduly inconvenience callers in the New York City area. Accordingly, the New York Department of Public Service (NYDPS) requests waiver of 47 C.F.R. § 52.19(3)(c)(ii).⁴

² NYPSC Opinion No. 97-18, Opinion and Order Concerning New York City Area Codes (Issued and Effective December 10, 1997) (NYPSC Area Code Decision (attached)).

³ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, FCC 96-333, 61 Fed. Reg. 47284 (1996) (Local Competition Second Report and Order).

⁴ The NYDPS does not waive its right to continue to challenge the Commission's jurisdiction to impose dialing parity requirements on intrastate calls.

Further, inasmuch as the NYDPS anticipates that all available central office codes in the 212 area code will be exhausted by June 1998, the NYPSC must implement a number relief plan sufficiently in advance of this date. Consequently, the NYDPS requests expedited action on its Petition for Waiver.

DISCUSSION

The stated purpose of the Commission's 10-digit dialing requirement is to prevent dialing disparity and to ameliorate anti-competitive effects of an overlay (Local Competition Second Report and Order, para. 281 - para. 293).⁵ Based on a comparison of the advantages and disadvantages of a geographic split versus an overlay, the NYPSC investigation of options for making additional central office codes available in New York City indicated that area code overlays is the best option.⁶ Area code overlays would provide longer numbering relief, significantly less customer inconvenience and lower overall cost. (Affidavit of Allan H. Bausback [Bausback Aff. ¶ 4]).⁷ However, imposition of mandatory 10-digit dialing would not serve the public interest.

⁵ See also, Pennsylvania Public Utility Comm'n for Expedited Waiver of 47 C.F.R. Section 52.19 for area code 412 Relief, FCC Docket No. 96-98 Order (Released April 4, 1997) (Pennsylvania Order).

⁶ New York City has gone through a series of area code changes. A geographic split was implemented in 1985, whereby the 718 area code was established and assigned to the boroughs of Brooklyn, Queens and Staten Island. In 1992, to further prolong the life of the 212 area code, the Bronx was moved from the 212 area code to the 718 area code. The 917 area code was introduced in 1992 as an overlay to provide further relief to the 212 and 718 area codes.

⁷ By the conclusion of the case, only one competitive local exchange carrier (CLEC) opposed the overlay.

In April 1997, the Commission denied Pennsylvania's request for waiver of 47 C.F.R. § 52.19(c)(3)(ii) because it concluded that (1) interim number portability would not eliminate dialing disparities between customers in the old area code and customers in the new area code (Pennsylvania Order para. 17); (2) the incumbent LEC was likely to have more numbers than CLECs in the old area code; and (3) it was more likely that the incumbent LEC will have more central office codes in more rate centers than the CLECs (Pennsylvania Order para. 19). Thus, the Commission held that customers would find it less attractive to obtain service from a CLEC solely because the incumbent LEC will have access to a larger pool of central office codes in the old area code (Pennsylvania Order, para. 19).

Anti-competitive effects that may exist as a result of dialing "disparities" between customers in the "old" area code and customers in the "new" area code will not be present in New York. In fact, the NYPSC Area Code Decision provides for an area code overlay plan that is competitively neutral. Imposition of the Commission's 10-digit dialing requirement would require all callers in New York City to dial 10 digits within their area code without improving competition.⁸

In order to alleviate potential anti-competitive effects of any area code overlay, the NYPSC Area Code Decision imposes the following conditions:

1. Continued application of the anti-discrimination provisions of the

⁸ Most of the consumers and community groups who commented in the NYPSC proceeding supported an area code overlay without mandatory 10-digit dialing (Bausback Aff. ¶ 5).

central office code assignment
guidelines;

2. Permanent local number portability to ensure competitively neutral access to existing number resources;
3. Implementation of number pooling⁹ as soon as it becomes technically feasible in order to ensure competitively neutral access to unassigned numbers;¹⁰ and
4. A comprehensive outreach and education program to acquaint the public with the overlay and its operation.

(Bausback Aff. ¶ 10).¹¹ Each condition would be met before the overlay would be activated. These conditions make the overlay competitively neutral and ameliorate potential anti-competitive effects of dialing "disparities" of an area code overlay in New York City.

The NYPSC Area Code Decision addresses the Commission's concern with respect to adequate access to numbering resources by requiring permanent local number portability prior to activation of an area code overlay, as well as by enforcement of the anti-discrimination provisions of the central office code assignment guidelines. Thus, CLECs will have equal access to number resources and the development of competition will not be impeded

⁹ Number pooling as used here would allow the assignment of telephone numbers from the existing area code(s) on an as needed basis without regard to the company serving the customer.

¹⁰ It is anticipated that number pooling will be introduced in Manhattan by April 1, 1998 and introduced throughout New York City by January 1, 1999 (coincident with the availability of local number portability).

¹¹ The NYPSC fully expects the number relief plan for Manhattan to be in place by early 1998.

by an overlay. Number pooling will also provide an additional pro-competitive safeguard.

The Commission expressed concern that CLECs will receive most number assignments from the new area code rather than the existing area code, making the new area code less attractive (Local Competition Second Report and Order at 47330, para. 287; Pennsylvania Order para. 19). The unique circumstances in New York do not support this premise. Although CLECs apparently were unable to obtain central office codes in many of the approximately 100 rate centers in the Pittsburgh area (Pennsylvania Order para. 21) the low number of rate centers in Manhattan allows all competitors to obtain central office codes in all rate centers (Bausback Aff. ¶ 8).¹² Moreover, number pooling will ensure that all carriers will have equal access to available numbers in the existing area code regardless of size and timing of market entry.¹³

In Manhattan, the CLECs have substantially lower number utilization rates than the incumbent LEC (15% compared with a number utilization rate of 80% for the incumbent LEC) and more available telephone numbers in proportion to their market shares (Bausback Aff. ¶ 14).¹⁴ In any event, the availability of number pooling places the incumbent LEC and CLECs in the same

¹² There are three rate centers in Manhattan (Bausback Aff. ¶ 8).

¹³ Also, NYPSC staff is working with the industry to examine whether consolidation of rate centers could conserve NXX code assignments and relieve pooled capacity.

¹⁴ Although the incumbent LEC has more numbers available on an absolute basis than does its competitors, it actually has fewer numbers in proportion to its market share (Bausback Aff. ¶ 14).

competitive position with respect to new number assignments. Moreover, telephone numbers in the new area code are likely to be rapidly used in light of the growing demand for telephone numbers in New York City (Bausback Aff. ¶ 7).¹⁵ Consequently, this demand should further mitigate any perceived anti-competitive effects of an overlay.

The overlay plan approved by the NYPSC furthers competition and addresses the anti-competitive issues raised by the Commission. Given the small number of rate centers in Manhattan and the availability of central office codes for all CLECs in the existing area code, the incumbent LEC does not have a competitive advantage with respect to number assignments. Thus, the numbering resources available to CLECs in Manhattan and the conditions envisioned by the overlay plan alleviates any potential anti-competitive effects of an overlay for this area. Mandatory 10-digit dialing, however, would only inconvenience the public. Accordingly, the Commission's 10-digit dialing requirement is unnecessary to promote competition, and the granting of a waiver will not undermine the competitive policies embodied in the Act.

CONCLUSION

For the forgoing reasons, the Commission should waive the requirements of 47 C.F.R. 52.19(c)(3)(ii) for the New York Metropolitan LATA. Further, in light of the impending exhaustion

¹⁵ There is no evidence that CLECs will receive a disproportionate amount of number assignments from the new area code. CLECs are more likely to experience customer growth by customers switching carriers. Number portability will allow these customers to retain their existing telephone numbers (Bausback Aff. ¶ 13).

of available central office codes in the 212 area code, the NYDPS requests expedited action on its Petition for Waiver.

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Dated: January 9, 1998
Albany, New York

**ATTACHMENT TO NEW YORK DEPARTMENT
OF PUBLIC SERVICE PETITION FOR WAIVER
OF 47 C.F.R. 52.19(3)(C)(ii)**

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

OPINION NO. 97-18

CASE 96-C-1158 - Proceeding on Motion of the Commission,
Pursuant to Section 97(2) of the Public Service
Law, to Evaluate the Options for Making
Additional Central Office and/or Area Codes
Available in the 212 and 917 Area Codes of New
York City.

OPINION AND ORDER
CONCERNING NEW YORK CITY AREA CODES

Issued and Effective: December 10, 1997

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

COMMISSIONERS:

John F. O'Mara, Chairman
Maureen O. Helmer
Thomas J. Dunleavy

CASE 96-C-1158 - Proceeding on Motion of the Commission,
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York City.

OPINION NO. 97-18

OPINION AND ORDER CONCERNING
NEW YORK CITY AREA CODES

(Issued and Effective December 10, 1997)

BY THE COMMISSION:

INTRODUCTION AND PROCEDURAL HISTORY

Telephone numbers within New York City (the City) now bear one of three area codes (technically known as "numbering plan areas" (NPAs)): 212 is assigned to landline service in Manhattan; 718 is assigned to landline service in the remaining boroughs, and 917 is assigned primarily to wireless service throughout the City.¹ The 212 area code is expected to run out of available central office codes as early as the first quarter of 1998; the 718 code is now expected similarly to exhaust early in 1999; and the 917 area code is expected to exhaust in fall of 1999.²

In an order issued December 31, 1996, we noted the impending exhaustion of central office codes (NXX codes) in area codes 212 and 917 and instituted this proceeding "to determine

¹ The 718 code was established in 1985 and initially assigned to Brooklyn, Queens and Staten Island. In 1992, to further prolong the life of the 212 code, The Bronx was moved from 212 to 718, leaving only Manhattan in 212. The 917 code was introduced in 1992, also to provide relief for 212.

² These exhaust dates, based on latest estimates by the Communications Division, are sooner than those forecast earlier in the case.

the best way to provide additional central office and area codes in New York City."¹ We directed New York Telephone Company (New York Telephone or the company) to file a report setting out its proposals for achieving that goal and invited persons interested in receiving copies of that report to submit their names to the Secretary. The report, addressed primarily to area code 212, was duly filed on February 27, 1997. In response to requests by staff and a directive from Administrative Law Judge Joel A. Linsider,² New York Telephone on May 15, 1997 supplemented its report to provide additional proposals related to area codes 917 and 718, recognizing that 718 was not in imminent danger of exhaust.

To state the matter most generally, New York Telephone discussed two methods for providing the needed relief: a geographic split, which would divide the 212 area into two regions, and an overlay, which would assign all new central office codes in Manhattan to the new area code once 212 had been exhausted.³ New York Telephone favored the overlay.

On March 5, 1997, a notice was issued convening an administrative conference to structure the proceeding; the notice was served on all parties who had requested copies of New York Telephone's report or had otherwise expressed interest in the case. The conference, held in New York City before Judge Linsider on March 25, 1997, was attended by representatives of the company; the New York City Mayor's Office and the New York

¹ Case 96-C-1158, Order Instituting Proceeding (issued December 31, 1996).

² Case 96-C-1158, Ruling on Scope and Procedure (issued April 16, 1997) (the Scope Ruling), p. 4.

³ The report also referred to a boundary realignment remedy, which would have assigned a portion of northern Manhattan to the 718 area. (Such a step would resemble that taken in 1992, when the 212 NPA was relieved by transferring The Bronx from 212 to 718.) Boundary realignment was clearly the least desirable remedy on many accounts, and the parties, at the collaborative conference described below, properly agreed that it should be considered no further.

City Department of Information Technology and Telecommunications (the City); AT&T Communications of New York, Inc. (AT&T Communications); Cellular Telephone Company d/b/a AT&T Wireless Services (AT&T Cellular); Teleport Communications Group, Inc. (Teleport); MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. (MCI); Bell Atlantic NYNEX Mobile¹ (BANM); and David Bronston, pro se. Staff of the Department of Public Service (staff) participated, as it has throughout the case, in an advisory capacity.

At the conference, in response to suggestions by various parties that the case involved factual issues warranting discovery and perhaps evidentiary hearings, the Judge invited parties to submit lists of issues on which they might want to conduct discovery. Four parties (MCI, Teleport, AT&T Communications, and BANM) did so. In the ensuing Scope Ruling, he determined that the case involved primarily policy issues and that, while policy judgments could not be made in a factual vacuum, no need had been shown for evidentiary hearings. At the same time, he recognized the need for parties to exchange information, and he therefore authorized the commencement of discovery, which continued throughout the case and elicited considerable information. He also invited written comments critiquing New York Telephone's report and proposing alternative arrangements, as well as replies to those comments, and he scheduled a collaborative conference of the parties, hoping thereby to achieve some consensus. Finally, with regard to the scope of the case, the Judge noted that in instituting the inquiry, we had sought to provide additional number resources throughout New York City, in area code 917 as well as 212. As already noted, therefore, he directed the company to respond more

¹ Now Bell Atlantic Mobile.

substantively than it had to a request from staff that it supplement its report with regard to 917 relief.¹

Initial comments were duly filed by the City, the State Consumer Protection Board (CPB), BANM, MCI, Sprint Communications Company L.P. (Sprint), and AT&T Communications jointly with AT&T Cellular (jointly, AT&T). Replies were filed by the City, BANM, MCI, AT&T, Teleport, and New York Telephone. The collaborative conference, held in New York City on June 16 and 17, 1997, was attended by New York Telephone, BANM, AT&T Communications, AT&T Cellular, MCI, Sprint, Time Warner Communications Holdings, Inc. (Time Warner), Teleport, the City, the Manhattan Borough President's Office, and Alan Flacks, pro se. Judge Linsider facilitated the conference and staff representatives participated as advisors. Although no consensus could be reached on the fundamental issue,² the parties' discussions clarified many of the issues and underlying concerns, and most of the parties regarded the process as a useful one.

Following the conference, staff prepared an options paper (the Staff Paper), in which it reviewed the parties' positions and offered its own evaluation.³ A copy of the Staff Paper is Attachment A to this opinion and order. On July 22, 1997, Judge Linsider issued the Staff Paper for comment; comments

¹ Judge Linsider left open the schedule for considering eight-digit local dialing, a long-term remedy staff had requested the company to examine. The company had responded that this measure could be considered only on a nation-wide basis. The Judge questioned that premise, but agreed that the issues presented by eight-digit local dialing were too numerous and complex to be decided in time to provide the needed relief in the 212 NPA.

² As noted above, the parties did agree to remove boundary realignment from consideration. In addition, they agreed, whatever else was decided, that existing wireless customers in all five boroughs would be grandfathered in their 917 overlay. That result is adopted, since there is no reason to require those customers to change their area codes.

³ "New Area Code(s) for New York City: A Description of Options (July 22, 1997).

were filed by New York Telephone, AT&T, MCI, Teleport, Time Warner, BANM, CPB, the City, and the Manhattan Borough President.

Public Statement hearings were held before Judge Linsider on July 23, 24, 29, and 30, 1997. Two such hearings were held in Manhattan and one in each of the other boroughs; a total of 18 people (other than active parties) spoke. Their comments are summarized below.

In addition to the formal proceedings just described, the Consumer Services Division conducted, over the course of the case, a City-wide outreach and education program. The program, described more fully below, provided an opportunity both to inform the general public about their issues and to receive their opinions in a context less formal than that of a public statement hearing.

Following our initial consideration of this case at our session on September 30, 1997, staff and various parties met on several occasions, pursuant to our directive, to give further consideration to matters related to number pooling and number portability. (These terms are defined and discussed below.) The meetings, held at our New York City offices on October 9, October 23, and November 7, 1997, were attended by staff, New York Telephone, BANM, AT&T, MCI, Time Warner, and Lockheed Martin IMS. (The first two meetings were a direct outgrowth of this case; the third was under the auspices of the New York Local Number Portability Steering Committee.) The meetings resulted in the formation of several subcommittees that will expedite the implementation of number pooling, as discussed below.

Because the Staff Paper fully describes the basic alternatives and their pros and cons, as well as staff's reasons for favoring an overlay, we do so here only briefly, in a description of the issues. We then consider the reaction to the Staff Paper, on the part of both the parties and the public, and present and discuss our determination that area code relief should be provided via suitably conditioned overlays.

THE ISSUES

The Nature of the Issues

General background on the North American Numbering Plan, and on the exponential growth in demand for telephone numbers, were set forth in the staff memorandum that recommended institution of this proceeding; for the reader's convenience, pertinent excerpts from that document are reproduced as Attachment B. As already noted, the two forms of code relief under consideration are a geographic split, which divides the 212 NPA into two areas, one retaining the 212 code and the other designated 646¹; and an overlay, which would superimpose the 646 code on the entire 212 area and assign newly issued phone numbers to 646 once 212 was exhausted. It should be noted that the overlay would apply to all telephone numbers, regardless of service, in contrast to the existing 917 overlay, which applies almost exclusively to wireless service; Federal Communications Commission regulations currently preclude service-specific overlays.² (Analogous arrangements would be made for the 718 code, via split or overlay, in time for its exhaust.)

In the comments that preceded the collaborative conference, and at the conference itself, New York Telephone's overlay was supported only by BANM. The competing local exchange companies (CLECs) for the most part favored a geographic split. In reaching their positions, the parties identified three principal groups of issues: the degree of relief provided by each alternative, the potential for imposing inconvenience, confusion, and expense on customers, and the potential for anticompetitive effects on New York Telephone's competitors in the local service market.

¹ The North American Numbering Plan Administrator, in response to New York Telephone's application, has designated that code for use in relieving 212.

² CC Docket No. 96-98, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order (August 8, 1996), ¶285.

1. Degree of Relief

For a geographic split to provide the maximum degree of relief, the two zones into which the original area is divided must reach exhaustion at the same time; otherwise, a further split (or other relief) will be required in one area before it is needed in the other. Achieving that result requires accurate estimates of growth in each area and is subject to the associated forecasting pitfalls. An overlay avoids that issue entirely, in that a further additional code would be assigned only when growth throughout the entire area so required. New York Telephone emphasized that advantage of an overlay; parties opposing it maintained New York Telephone had underestimated the degree of relief available through geographic splits, thereby overstating the advantage of an overlay. No one, however, contested the a priori point that the relief provided by a split could not exceed that of an overlay.

2. Effects on Customers

Both alternatives entail potential inconvenience, confusion, and expense for customers; when compared, they sometimes emerged as mirror images in this regard. For example, geographic splits are said to provide a recognizable boundary between the zones, preserving their identity and avoiding the confusion of an overlay's potential assignment of different area codes to residents of the same building. But the same comparison is expressed, from the point of view of an overlay advocate, by saying that the overlay treats all customers equally, avoiding potentially invidious geographic divisions that can be seen as red-lining. Similarly, advocates of a split spoke of preserving the ease with which a caller knowing the location of the party being called can determine the area code; overlay advocates pointed to the meaninglessness of a Manhattan street boundary to most callers from out-of-town and many even within the City.

Other points of comparison included the need for forced number changes (none under an overlay; many area code changes and some entire-number changes under a split); and the need for 11-

digit dialing (only from one NPA to another under a split; universally, even within the same NPA, under an overlay, given current FCC requirements¹). The parties disputed the significance of the expense and inconvenience that might be occasioned by the alternatives.

3. Effects on Competitors

A fundamental concern in the case was the claim that an overlay could disadvantage CLECs by making it more likely that their customers would be assigned to the putatively less-desirable 646 NPA than to 212. The concern arises because new entrants are said to have a disproportionately large share of their numbers in the new area code, assignments to which would be chronologically rather than geographically determined.

The Staff Paper

After reviewing the alternatives, the Staff Paper concluded that an overlay suitably conditioned to mitigate anticompetitive effects offered the best form of relief, for "it appears to provide greater relief with less disruption and inconvenience."² The conditions proposed in the Staff Paper were strict adherence to the provisions of the central office code (NXX) assignment guidelines that bar discrimination among

¹ To carry out the local competition provisions of the Telecommunications Act of 1996, the FCC has required that where an overlay is used, all calls within the area, even within the same NPA, must dial the area code. (47 C.F.R. §52.19(c)(3)(ii).) As noted below, competitors of New York Telephone in the local service market indeed see this as an important pro-competition measure. It should be noted that parties have been inconsistent in referring to this as 11-digit dialing or 10-digit dialing; this opinion refers to it as 11-digit dialing, recognizing that the NPA is currently preceded by "1."

² Staff Paper, p. 20.

carriers¹; universal 11-digit dialing (as already required by the FCC), which would mean that no customers would be more likely than any others to have to use 11 digits for a local call; and the availability of Local Number Portability (LNP),² which enables a subscriber of one LEC to retain its telephone number even upon moving to another. The Staff Paper noted that LNP was scheduled to be available in New York City by the end of the first quarter of 1998. If that deadline were missed, the Staff Paper would require some other mechanism to ensure that all central office code users had equal access to any remaining 212 numbers. It suggested, as one possibility, reserving unused numbers in 212 for use by existing customers at existing locations.

Should an overlay be rejected in favor of a geographic split, staff would favor dividing Manhattan at 23rd Street. That dividing line, not among those considered in New York Telephone's initial report, was proposed by AT&T and quickly became widely recognized as the geographic split that stood to provide the greatest degree of relief and impose the least disruption on customers. AT&T had suggested that the 212 NPA be retained north of 23rd Street and that 646 be assigned to the south; the Staff Paper, however, suggested 212 be retained south of 23rd Street and 646 be introduced to the north.³

Looking beyond the 212 NPA, the Staff Paper would continue to assign new wireless customers City-wide to the 917 NPA until it, too, was exhausted. From that point on, no

¹ Industry Number Committee (INC) Guideline 95-0407-008 requires that central office codes be assigned to all qualified applicants in a non-discriminatory manner.

² Sometimes referred to by the parties as "Permanent Number Portability" (PNP), to distinguish it from certain interim arrangements that are inadequate for these purposes.

³ An exchange of letters between AT&T and staff confirmed that the Staff Paper intended only to credit AT&T with proposing the 23rd Street line and did not mean to imply, as it might have been taken to, that AT&T also proposed assigning 646 to the northern area.

distinction would be drawn between new wireline and new wireless customers with regard to NXX assignment.

Once the 718 NPA became exhausted, a four-borough overlay (NPA 347) would be applied. Should a geographic split be preferred, staff would divide The Bronx and Queens on the one hand from Brooklyn and Staten Island on the other. Because the Bronx NPA had been changed as recently as 1992, staff would assign the new 347 NPA to Brooklyn and Staten Island.

Finally, the Staff Paper pointed out that regardless of which alternative were selected, it would be necessary to ensure that all callers to Directory Assistance bureaus, City-wide, receive all the information they need (including area codes) to complete their calls. To this may be added the universal premise that no area code change within New York City would have any effect on rates, a sound assumption not only on policy grounds but also because Public Service Law §91(2)(b) requires it.

General Positions of the Parties and the Public

The parties filing comments on the Staff Paper fall into four groups: those favoring an overlay (New York Telephone, BANM, Time Warner, Manhattan Borough President); those regarding it as acceptable if suitably conditioned but otherwise favoring a split (MCI, AT&T); those favoring a geographic split and apparently regarding an overlay as problematic under any circumstances (Teleport); and those emphasizing the interest in examining ways to postpone any form of code relief, (New York City, CPB).

Public sentiment in general tended to favor the overlay, though some support was expressed for the split as well.

PARTIES' COMMENTS

New York Telephone

New York Telephone continues to press strongly for adoption of an overlay. It begins with the argument that an overlay would provide relief for at least as long as any possible geographic split and for longer than any split that fell short of

constructing two areas that would exhaust simultaneously--a difficult task at best, and one made harder by the absence of readily available information on the CLECs' projections of demand. Noting the staff estimates that a 23rd Street geographic split would provide five years of relief, in contrast to the six and one-half years of relief provided by an overlay, New York Telephone emphasizes the importance of code longevity, given the increasing demand for telecommunications services.

Turning to effects on customers, New York Telephone notes that an overlay would permit all existing customers to keep their current telephone numbers. In contrast, a geographic split would require approximately 1.1 million customers in Manhattan to adopt new area codes and approximately 25,000 "pocket" customers to change their seven-digit telephone numbers as well.¹ New York Telephone notes the expense that would be incurred by customers in changing their printed materials and advertising and to the difficulties the change would impose on customers who are handicapped or speak little or no English. It suggests the geographic split is favored by the "winners," who keep their existing area code, but that the benefit to them is outweighed by the expense and inconvenience imposed on the "losers."

Pointing as well to the difficulty of drawing boundary lines within Manhattan, which lacks easily recognized geographic or political boundaries, New York Telephone asserts that a geographic split would divide communities and entail a risk of perceived red-lining of the area to which the new code is

¹ The "pocket customer" phenomenon exists because central office boundaries are not identical to the street boundaries that provide the most convenient geographic dividing lines. If, as staff suggests, the area north of 23rd Street is to be served by a new area code, about 25,000 customers located on one side of 23rd Street but served by central offices on the other side would have to change their seven-digit numbers as well as their area codes. The problem could be avoided by a geographic split following central office lines, but the public is not familiar with those lines and using them as the dividing line would be unacceptably confusing. (Occasional references in various documents to 70,000 pocket customers include those created by a 718 geographic split as well.)